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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of)

The Application of Southwestern Bell)
Telephone Company for Waiver of Local)
Access and Transport Area Boundaries)
to Provide Two-Way, Non-Optional)
Expanded Local Calling Service)

NSD-L-96-4

The Application of Southwestern Bell)
Telephone Company for Waiver of Local)
Access and Transport Area Boundaries)
for the Limited Purpose of Providing)
ISDN in the Hearne LATA)

NSD-L-96-6

BellSouth Petition for Limited Modification)
of LATA Area Boundaries to Provide)
Two-Way Non-Optional EAS)

NSD-L-96-7

Received
AUG 27 1996
Common Carrier Bureau
Network Service Division
Office of the Chief

Cindy Z. Schonhaut
Vice President, Government Affairs
INTELCOM GROUP (U.S.A.),
INC.
9605 East Maroon Circle
Englewood, CO 80112
(303) 575-6533

Albert H. Kramer
Robert F. Aldrich
DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 828-2226

Attorneys for IntelCom Group
(U.S.A.), Inc.

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**COMMENTS OF
INTELCOM GROUP (U.S.A.), INC.**

Intelcom Group (U.S.A.), Inc., submits the following comments on the above-captioned petitions of Southwestern Bell Telephone Company ("SWBT") and BellSouth Telecommunications, Inc. ("BellSouth") for waiver of the LATA boundaries in certain areas of Texas and North Carolina.

STATEMENT OF INTEREST

ICG is one of the largest providers of competitive local access services in the United States. Using fiber optics and advanced communications technology, ICG

currently operates networks in numerous parts of the United States, including some of the local access and transport areas ("LATAs") affected by the above-captioned petitions.

ICG provides services both to carriers and to end users, and increasingly offers switched as well as dedicated services to its customers. With the emergence of new competitive opportunities under the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (Feb. 8, 1996) ("the 1996 Act"), ICG is seeking to expand its offerings of local exchange and exchange access services.

DISCUSSION

ICG currently takes no position on the petitions. The proposals of Southwestern Bell for two-way, non-optional expanded local calling service ("ELCS") and of BellSouth for two-way non-optional extended area service appear to be based on State Commission orders that resulted from significantly supported requests for service initiated by the affected communities. ICG is not aware at this time that the requested changes in LATA boundaries would have more than a de minimis competitive effect.

However, the Commission should recognize that there is a significant history and precedent regarding past requests for waiver or modification of LATA boundaries under the divestiture decree. A significant number of past requests for waiver or modification of LATA boundaries filed with the divestiture court were denied because they were found to pose unacceptable risks to competition. With enactment of the Telecommunications Act of 1996, the scope of permissible adjustments in LATA boundaries has narrowed significantly. For example, the Act, unlike the decree, does not

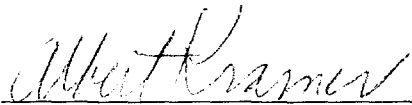
allow for LATA waivers, only "modification." 47 U.S.C. § 153(25). Further, the Commission must take steps to ensure that neither the "modification" or "waiver" process becomes a vehicle for the BOCs to expand their permissible calling areas without complying with Section 271 of the Act, 47 U.S.C. § 271.

Thus, while ICG does not oppose the above-captioned petitions at this time based on the information available to it, the Commission should approach the evaluation of these and future requests for LATA modification with great caution. Commission decisions should not erode the longstanding arrangements of the decree unless and until Bell Operating Companies have fully justified relief from interLATA service restrictions pursuant to the proceedings contemplated by Section 271 of the Act.

August 26, 1996

Respectfully submitted,

Cindy Z. Schonhaut
Vice President, Government Affairs
INTELCOM GROUP (U.S.A.),
INC.
9605 East Maroon Circle
Englewood, CO 80112
(303) 575-6533


Albert H. Kramer
Robert F. Aldrich
DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
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Attorneys for IntelCom Group
(U.S.A.), Inc.